UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

(b)(6)

DEC 14 2010

Dear (b)(6)

This is to respond to your undated letter that was received in this Office on October 18, 2010, in which you allege that Valley Forge Middle School (School) violated rights afforded you under the Family Educational Rights and Privacy Act (FERPA). 20 U.S.C. § 1232; 34 CFR § 99. You allege that your two children (Students) attend or attended the School.

You allege that the above educational agency or institution did not comply with one of the following provisions of FERPA:

__X__ FERPA's access provision.

_____ FERPA's disclosure provision.

_____ FERPA's amendment provision.

FERPA provides that an educational agency or institution that receives U.S. Department of Education funds may not have a policy or practice of denying parents or eligible students the right to:

- Inspect and review education records (34 CFR § 99.10).
- Seek to amend education records (34 CFR §§ 99.20, 99.21, and 99.22).
- Consent to the disclosure of personally identifiable information from education records except as specified by law (34 CFR §§ 99.30 and 99.31).

The term "education records" is defined as those records that are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Enclosed for your information are a FERPA fact sheet for noncustodial parents, guidance document, and complaint form.

Based on the information you provided this Office, we are unable to investigate your allegation(s) for the following reason(s):

____ Your complaint is untimely. A complaint must be received by this Office within 180 days of the date of the alleged violation or of the date which the complainant knew or reasonably should have known of the alleged violation. (See highlighted portion of the enclosed guidance.)

__X__ While FERPA requires that a parent or eligible student be provided an opportunity to inspect and review education records, the law would only require that a school provide a copy of the records or make other arrangements for inspection of the records if certain circumstances exist. (See highlighted portion of the enclosed guidance.)

_____ FERPA permits educational agencies and institutions to disclose education records to school officials with legitimate educational interest and other specified parties without consent. (See highlighted portion of the enclosed guidance.)

_____ You have not provided sufficient information for this Office to determine that a violation of FERPA may have occurred. (See enclosed guidance.)

_____ Requests to modify a grade, opinions included in education records, and other substantive decisions are not subject to FERPA's amendment provision. (See highlighted portion of the enclosed guidance.)

FERPA is a Federal law that gives custodial and noncustodial parents alike the right to have access to their children's education records unless there is a court order or State law that specifically provides to the contrary. The school may ask for legal certification denoting parenthood, such as a court order or birth certificate, from the parent requesting access to education records.

In order to exercise your rights under FERPA, I suggest you write to the appropriate official at the School and request the specific education records to which you are seeking an opportunity to inspect and review. Though it is not required, you may want to include a copy of this letter and the fact sheet for noncustodial parents along with your request. If the school fails to provide you an opportunity to inspect and review the requested education records or fails to contact you within 45 days, you may write to this Office again. At such time, please provide us with a dated copy of your request to the School, any response from the School, and a completed copy of the enclosed complaint form. We will review the information you submit and take any appropriate action.

I trust this information adequately explains the scope and limitations of FERPA as it pertains to your concern.

Sincerely,

(b)(6)

Ricky C. Norment
Program Analyst
Family Policy Compliance Office

Enclosures